# (1/5) Interpretations

The res is a question of which system is a better ideal, not which one should be implemented. **A) Textuality -** ‘ought to be’ entails an ideal, not an action. **Robinson[[1]](#footnote-1):**

Many **ought-sentences** are not prescriptive at all, either prudentially or morally, but express valuations. **Such as** "Everybody **ought to be happy**". This is **[are] not a** prescription or **command** to anybody to act or to refrain. **There is no** possible **act that would count as the fulfillment of the[m]** command, if it were a command. Neither individually nor collectively can we make everybody happy. But the state of universal happiness **[it] is an ideal that** we cherish; and the sentence expresses this ideal. It is thus a valuation. A valuation **is** something **distinct from a prescription**, though they share the negative property of not being descriptions. Even when there is a possible act, the ought may be more ideal than prudential. The question "Do you think the hem of this dress ought to be higher?" suggests the practical possibility of raising the hem; but what the speaker has in mind is rather the question of beauty, of better- ness, of the ideal dress-length. "A clock ought to keep good time" is obviously not an imperative to clocks. Nor is it, except indirectly, a prescription to clockmakers and clockminders. It is a platitudinous restatement of the obvious ideal of a clock. (I take this example from Mellor's discussion of knowledge in Mind, 1967.) "You ought to feel ashamed" might be a moral ought if the speaker believed that we can feel what we will when we will; but usually it is the ideal ought. A man who feels shame after doing such an act is, in the speaker's opinion, a less bad man than one who does such an act and feels no shame. "Feel ashamed" does not refer to an action, a doing. **Wherever ought is followed by a nondoing infinitive**, as "to feel ashamed", **it is** likely to be the ideal **[an] ought.** An outstanding case of the nondoing infinitive is "'to be"; and "ought tobe" usually belongs to a sentence that expresses an ideal, not a command. "Everyone ought to be happy." "There ought to be a chicken in every pot." "Ought to have" is nearly the same. "Everyone ought to have a motor-car." "Everyone ought to have equal opportunity." "There ought to be a minimum wage" can perhaps be interpreted as a command to Parliament, and hence as the moral ought. Still more so the common phrase "There ought to be a law against it". But probably those who use such phrases rarely think of themselves as prescribing to Parliament; and what they say ought to exist is often something that cannot be brought into existence by the passage of a law. They are **expressing an ideal.**

Text controls the internal link into any other standard because without it we don’t know what we’re debating in the first place.

**B) Topic Lit** – **Cahill[[2]](#footnote-2):**

By contrast, **retributivism**, which adopts a **[is] backward-looking** perspective **focusing on the** moral **duty to punish** past wrongdoing, is a justificatory theory, but seemingly **[it is] not** a **prescriptive** one. 8 **It offers retribution as a[n]** justifying **ideal but does not** explain how legal institutions are supposed to make retribution [it] real**.** 9 To the extent retributivism offers guidance about its own operation in practice, it **speak[ing]**s **only to the content of** criminal law **rules,** and **not** to **their implementation**. 10 Retributive principles may identify what the law should criminalize, 11 and might even say something about the proper idealized level of punishment for those crimes relative to each other. 12 As to matters of application, however, **retrib[s]**utivists tend to **focus only on the** resolution of individual (often **hypothetical**) cases where an offender’s behavior is known or stipulated.

And, if neg wins that implementation is better than principle just revaluate my offense under their paradigm - that prevents 1AC preclusion and offsets neg adaptability in the NC and that I speak in the dark.

**And,** burden of proof if on the negative. Retribution is assumed to be unjust. Otherwise you presume aff because they haven’t met their burden and we assume the res is true. **Shafer-Landau[[3]](#footnote-3):**

Punishment is presumptively unjustified because it involves the deliberate infliction of coercive, sometimes painful treatment. Retributivism seeks to override that presumption by citing the moral requirement to mete out just deserts for wrongdoers. This response has attracted widespread criticism that usually proceeds in the following way: either this moral requirement is self-justifying or it isn't. If it isn't self- justifying, then appeal must be made to some ulterior good obtained through punishment(e.g., deterrence).In that case, the resulting general justifying aim isn't retributive at all. To the possibility that the retributivist moral requirement might be self-justifying, opponents simply disagree and charge that such manoeuvres are question-begging.

**And,** neg must defend that retribution ought to be valued over rehabilitation – otherwise there isn’t any substantive clash and burdens aren’t reciprocal. If they aren’t topical presume aff because they have no advocacy with which to derive offense.

**And,** *Rehabilitation* is ‘To restore to good health or useful life, as through therapy and education.’[[4]](#footnote-4) So the aim of it is to improve the offender. Retributive systems must be based on desert and justify punishment for its own sake. **Hart[[5]](#footnote-5):**

It is I think helpful to start with a simple, indeed a crude, model of a **retributive theory** which would satisfy stricter usage. Such a theory will **assert[s]** three things: **first, that a person may be punished** if, and **only if, he has voluntarily done something** morally **wrong; second**ly, **that** his **punishment must** in some way **match,** or be the equivalent of, the wickedness of **his offence; and third**ly, **that** the justification for **punishing** men under such conditions is that the return of suffering for moral evil voluntarily done, **is itself just or morally good.** So the theory gives a retributive answer to the three questions, ‘What sort of conduct may be punished?’ ‘How severely?’, and ‘What is the justification for the punishment?’

Prefer my interp. **A)** Oxford Scholarship[[6]](#footnote-6)notes that Hart was the most important legal philosopher of the 20th century. **B)** Desert is the heart of neg topic lit; nearly every philosopher justifies retribution on the basis of it.

**And,** rehab includes deterrence. **Rotman[[7]](#footnote-7):**

**Rehab**ilitation **does not oppose the** measure of **deterrence** inherent in legal punishment. It strives only to maintain punishment within its legal limits, counteracting its unwarranted consequences. **There is** thus **no basis for** proposing **deterrence** policies **as a** novel **substitute for rehabilitation**, for deterrence has always been the essence of criminal law. **A right to rehabilitation does not contradict the deterrent effect of criminal sanctions** as long as they do not exceed the limits marked by the due process of law. Indeed, **a basic function of rehabilitation is to prevent and counteract such abuses.**

**And,** rehab is punishment. **Daly[[8]](#footnote-8):**

Another way to define **punishment** practices **is anything that is unpleasant**, a burden, **or an** imposition of some sort on an offender. Thus, compensation is a punishment, as is **[such as] having to attend** a **counselling** program, **pay**ing **a fine, or** having to **report to a probation officer** on a regular basis (see, more generally, Duff 1992, 1996; Davis 1992). This is, in my view, a better way to define punishment. If this more inclusive definition were used, it would be impossible to eliminate the idea of punishment from a restorative response to crime, even when a meaningful nexus is drawn between an offence and the ways that an offender can "make amends" to a victim.10 Now, of course, **punishment** as a social institution **is** considerably **more than** the array of **sanctions** or penalties imposed **for crime.** Garland (1990: 17) suggests that "punishment **[it] is a legal process ... where violators are condemned and sanctioned in accordance with specified legal categories** ... The process is ... complex and differentiated, ... involv[ing] discursive frameworks of authority and condemnation; ritual procedures ...; a repertoire of penal sanctions, institutions, and agencies ...; and a rhetoric of symbols, figures, and images by ... which the penal process is represented to its various audiences". The variety of sites and practices of punishment lead Garland to conclude that punishment has "a whole range of possible referents" and "is likely to exhibit internal conflicts and ambiguities". Using Garland's definition, we could all agree that restorative justice is one practice in a broader conceptualisation of punishment as a social institution.

**And,** we evaluate the moral quality of actions based on intent since consequences are epistemically inaccessible. **Dorsey[[9]](#footnote-9):**

First, virtually anything we do, as Lenman notes, is likely to have [has] consequences that are identity-affecting, altering facts about who exists or will exist.7 But [such] the consequences of identity affecting actions, or most of them anyway, are invisible. As an illustration, Lenman considers the act of “Richard,” an early German conquerer, in sparing [a person] “Angie”—whose far distant ancestor turned out to be Adolf Hitler: The decision to spare Angie is an event with massive causal ramiﬁcations. It is highly plausible that almost all killings and engenderings and refrainings from these have similarly massive causal ramiﬁcations. These actions ramify in massive ways most obviously because they are, let us say, ‘identity-affecting’. These are actions that make a difference to the identities of future persons and these differences are apt to amplify exponentially down the generations. A very high proportion of identity-affecting actions are, it is enormously plausible, reliably subject to such massive causal ramiﬁcation.8 Given that any particular action—especially actions that are in some way or other identity-affecting—will have massive causal ramiﬁcations, we surely have no good evidence in the ex ante or ex post about the axiological quality of the consequences of our actions. That Richard’s sparing of Angie eventually resulted in the holocaust is certainly unknowable to Richard, Angie, or, indeed, anyone else. Second, some of the consequences of our actions are the result of that action playing a role in a causal system that is extremely sensitive to small changes. Lenman writes: “Indeed, it is arguably a very real possibility that very many actions that seem very insigniﬁcant are subject to massive causal ramiﬁcation. For some causal systems are known to be extremely sensitive to very small and localized variations or changes in their initial conditions.”9 Lenman cites the weather and ﬁnancial markets, systems that can alter signiﬁcantly with very small perturbations. These consequences are barred to even the most epistemically responsible agent. Hence a gigantic proportion of the consequences of our actions are invisible, and hence the moral valence of our actions is invisible as well. Furthermore, it would appear that this argument could go further. It needn’t be the case that any particular action actually had massive, unknowable causal ramiﬁcations for the moral valence of that action to be unknowable. Because we know that any action can have such causal ramiﬁcation, we are unjustiﬁed in maintaining any conﬁdence [in] that the visible consequences of any particular action are the only consequences (even if, in fact, they are). Hence the argument from cluelessness seems to show, quite powerfully, that the moral valence of any action is simply unknowable, beyond our epistemic access. As Lenman writes: “The worry is not that our certainty is imperfect, but that we do not have a clue about the overall consequences of many of our actions. Or rather—for let us be precise—a clue is precisely what we do have, but it is a clue of bewildering insigniﬁcance bordering on uselessness—like a detective’s discovery of a fragment of evidence pointing inconclusively to the murderer’s having been seven feet tall. We may not be strictly without a clue, but we are virtually without a clue.

**Also,** if consequences are unknowable then we can’t judge the normative worth of a policy action so ideal comes before implementation.

# (2/5) Framework

**I value morality** since *ought* implies a moral obligation.[[10]](#footnote-10) Philosophy presupposes sociology. **Knight[[11]](#footnote-11):**

From such a hermeneutic perspective, much in After Virtue—the book in which MacIntyre criticized Rawls’ individualism (MacIntyre 1985, 246–52) in the name of an ‘Aristotelian tradition’—indeed appears to be more communitarian than its author admits. Although the book is subtitled “A study in moral theory”, it quickly declares that “a **moral philosophy** ... characteristically **presupposes** a **sociology”, an understanding of how** thephilosophy’s **“concepts are** embodied or at least can be **in the real social world**” (MacIntyre 1985, 23). Nor is the book’s similarity to Gadamer’s work only in its apprehension and evaluation of individual action in terms of social practice. It also resembles Gadamer’s position in apprehending social practice in hermeneutic and historical terms, recognizing that “participants’ **understanding of social and economic activity is integral to and** partially **constitutive of** such activities” and **explaining** such **activities in terms of “rationally defensible** explanatory **narratives”** (MacIntyre 1984, 254). This is **an approach that deals in particularities and not the universal. It is therefore an approach which is consistent with** the kind of generalizations that Aristotle admitted into the study of “**human aﬀairs”**, which apply only “for the most part”, rather than with the kind of generalizations made by “the modern social scientist” (MacIntyre 1985, 159). Nor is this all, as there are good reasons to suppose that MacIntyre’s very identiﬁcation of the argument of After Virtue as ‘Aristotelian’ owes much to his rereading of Wahrheit und Methode (Knight 2006).

Value pluralism is true and cannot be rationally overcome. Ethics is senseless. **MacIntyre[[12]](#footnote-12):**

The first is what I shall call, adapting an expression from the philosophy of science, the conceptual incommensurability of the rival arguments in each of the three debates. Every one of the **argument**s **is** logically valid or can be easily expanded so as to be made so; the conclusions do indeed follow from the premises. But the rival premises are **such that we possess no rational way of weighing** the **claims** of one as against another. For each premise employs some quite different normative or evaluative concept from the others, so that the claims made upon us are of quite different kinds. In the first argument, for example, **premises which invoke justice and innocence are at odds with premises which invoke success and survival;** in the second, premises which invoke rights are at odds with those which invoke universalizability; in the third it is the claim of equality that is matched against that of liberty. It is precisely **because there is** in our society **no established way of deciding between these claims** that **moral argument appears to be** necessarily **interminable.** From our rival conclusions we can argue back to our rival premises; but when we do arrive at our premises argument ceases and **the invocation of one premise against another becomes** a matter of pure **assertion and counter-assertion.** Hence perhaps the slightly shrill tone of so much moral debate.

Only virtue ethics is consistent with pluralism. **Carhart[[13]](#footnote-13):**

The contemporary field of **ethics is characterized by a diversity of moral theories** and systems. Alasdair **MacIntyre declares that “each premise employs some quite different normative or evaluative concept from the others, so that the claims made upon us are** of quite **different** kinds” (1993, p. 279). John H. Yoder concludes that when people critique a variety of pacifist views, they tend to stray from the true issue by “simply talking past one another out of logically incompatible prior assumptions” (1971, p. 129). Yoder advises the evaluation of each version of pacifism in its own system. As this paper has attempted to demonstrate, when judged on their own terms, pacifist theories founded on act-based systems display major weaknesses. **Virtue ethics offers an** ancient **alternative** approach **that** has been revived within the past century. Instead of focusing on individual actions, virtue ethics addresses individual character; it **emphasizes “being” instead of “doing.” A moral system** based on **[of] virtue** holds the potential to be **[is] more holistic than act-based systems. The purpose of virtues relates to the good of** specific practices, individual lives, societies, and the **traditions that provide context for individual lives** (MacIntyre, 1993). By avoiding becoming bogged-down in detailed considerations of rules and consequences, an ethics centered on personal character also sheds a different light on what it means to be pacifistic and may allow us to come closer to the heart of the pacifist doctrine.

Virtue ethics avoids the failings of abstract and codified moral theories. **Silva[[14]](#footnote-14):**

But what went wrong with modern moral theories? We may say that, according to virtue ethicists, modern **moral philosophy commits a fundamental sin when it tries to ground moral action on a set of universal rules or principles**. Such an approach to moral life is subject to two major objections. In the **first** place, it **promotes an abstract account of the ethical domain that neglects** some **vital aspects of moral life: education, character, motivation, happiness or emotions**. In fact, **virtue ethics is characterized by a focus on real agents,** in contrast to the deontological focus on duties or actions (considered independently of their consequences) and the consequentialist focus on the results of actions. In the **second** place, virtue ethics claims that **moral knowledge cannot be reduced to a system of rules and principles**; in other words, moral knowledge **[it] is uncodifiable.** The quotes in epigraph help us to understand the appeal of virtue ethics in comparison with **deontological and consequentialists approaches to ethics**. These approaches, which dominated modern moral philosophy, **suffer from** what John Cottingham called **a “depersonalizing tendency**” (1996: 58). In fact, both perspectives are impersonal accounts of moral action: deontological theories are based on **a list of universally valid duties** or obligations, whereas consequentialism is guided by **equally impersonal rules that are supposed to promote**, for instance, **collective happiness** or welfare. On the contrary, virtue ethics, far from abstracting from the character, motivations and even emotions from the agent, tries to ground[s] moral action in the real agent. This point has a good illustration in McDowell's claim that ethics should be “approached via the notion of a virtuous person. A conception of right conduct is grasped, as it were, from the inside out” (McDowell, 1998: 50). A similar idea is sometimes expressed by saying that **virtue ethics focuses on being,** whereas deontological and consequentialist perspectives focus on doing. In other words, **the central question** for virtue ethicists **is “what sort of person should I** be?”; in contrast, the key question for modern moral philosophers is “how should I act?”2 In the philosophy of the human sciences, there is a distinction between cold methodologies and hot methodologies; in similar vein, we can speak of cold (consequentialism/deontologism) and hot (virtue ethics) approaches to ethics.

Virtue ethics is key to a functioning legal ethical system and is the only way for morality to be internally consistent. **Silva 2:**

The second distinctive trait of virtue ethics is closely connected with the first one: virtue ethics is suspicious of the guiding role of principles and rules. The point was already made by Aristotle, namely in his discussion of the legal virtue of equity. Equity is required **because laws and rules are too generic to accommodate all possible cases that judges can face. No legal system can avoid** the occurrence of the so-called **hard cases**: The reason for this is that **law is always a general statement, yet there are cases which it is not possible to cover in a general statement.** […] The material of conduct is essentially irregular. […] This is the essential nature of the equitable: it is a rectification of law where law is defective because of its generality. (Nichomachean Ethics 1137b) **There are**, indeed, **two basic problems when we try to act solely on principles.** **First**ly, **there is a gap between general principles and the unpredictable diversity of situations that demand moral decisions;** as a result **it is** often very **difficult, if not impossible, to determine how to apply a principle to certain, atypical situations**. In other words, it is possible to arrive at different conclusions departing from the same principles. **Secondly, there can be clashes between equally valuable principles, depriving thereby the agent of action guidance.** We may add that **virtue ethics**, far from endorsing moral universalism, **is sensitive to the role of context in ethics**. In the words of Julia Annas (2004: 741), virtue ethics is opposed to “one-size-fits-all” accounts of ethics. Virtue ethics invites us to adopt moral contextualism, but it should be noted that contextualism must not be confused with relativism.

**The standard** is promoting offenders’ ability to flourish.

# (3/5) Contention

Rehab is best suited to treat offenders’ needs. **Cullen and Gendreau[[15]](#footnote-15):**

The first principle is that**interventions should target the known predictors of crime and recidivism for change**. This principle starts with the assumption that correctional treatments must be based on criminological knowledge—what they call the “social psychology of criminal conduct” (Andrews 1995; Andrews and Bonta 1998). There are two types of predictors that place offenders at risk for crime: “static” predictors—such as an offender’s criminalhistory—which cannot be changed, and “dynamic” predictors—such as antisocial values—that can potentially be changed. In this perspective, these dynamic predictors or risk factors are typically referred to as “criminogenic needs.” In investigating risk factors or predictors of crime, it is possible that the research could have indicated that the major predictors are static. If so, then the prospects for rehabilitation would have been minimal. But this did not turn out to be the case. **Meta-analyses reveal that many of the most salient predictors are dynamic** (Andrews and Bonta 1998; Gendreau, Little, and Goggin 1996). **These include**: (1) “antisocial/procriminal attitudes, values, beliefs and cognitive-emotional states (that is, personal cognitive supports for crime)”; (2) “**procriminal associates and isolation**from anticriminal others (that is, interpersonal supports for crime)”;and (3) antisocial personality factors, such as impulsiveness, risk-taking, and low self-control (Andrews 1995, 37; see also Andrews and Bonta 1998, 224–225; Gendreau, Little, and Goggin 1996). Conversely, the research suggests that **many factors thought to cause crime**, such as low self-esteem, **are unrelated** or only weakly related **to recidivism.** Thus, targeting these factors for intervention will produce little, if any, change in offenders’ conduct. Second, the treatment services should be behavioral in nature. In general, behavioral interventions are effective in changing an array of human behavior. With regard to crime, they are well-suited to altering the “criminogenic needs”— antisocial attitudes, cognitions, personality orientations, and associations—that underlie recidivism. For this reason, Andrews argues that behavioral interventions satisfy the criterion of “general responsivity”; that is, they match the needs of offenders. Andrews (1995, 56) notes that these interventions would “employ the cognitive behavioural and social learning techniques of modelling, graduated practice, role playing, reinforcement, extinction, resource provision, concrete 145 In general,**behavioral interventions**are effective in changing an array of human behavior. With regard to crime, they **are** **well-suited to altering the “criminogenic needs”**— antisocial attitudes, cognitions, personality orientations, and associations—**that underlie recidivism**, verbal suggestions (symbolic modelling, giving reasons, prompting) and cognitive restructuring.” Reinforcements in the program should be largely**[through] positive [reinforcements]**, not negative. And the services should be intensive, lasting 3 to 9 months and occupying 40 to 70 percent of the offenders’ time while they are in the program (Gendreau 1996b). **In contrast**, other treatment modalities lack general responsivity. Andrews and Hoge (1995, 36) contend that less effective treatment “styles are less structured, self-reflective, verbally interactive and insight-oriented approaches.” **Punishment approaches do not target criminogenic needs and thus are**among the most**ineffective**interventions with offenders.

Rehab aims to rectify the social deprivation that underlies crime and to teach offenders self-control and self-help. **Raynor and Robinson[[16]](#footnote-16):**

However, they also open the door to some other kinds of justification. For example, if justice requires that penalties should be determined by seriousness and culpability, should not offenders whose circumstances offer them few alternatives to crime be treated as less blameworthy than those who have many resources, options and alternatives? Consider the impoverished single parent who makes a false statement to support a benefit claim when her children do not have enough to eat. Is she as blameworthy as the wealthy businessman who makes a false statement to secure some financial advantage simply to satisfy greed? It has been suggested that in order to recognize these differences of circumstances, opportunities and power, just deserts approaches to sentencing should allow a ‘hardship defence’ which partly or wholly mitigates the penalty (Hudson, 1999). This would also be relevant to people who offend because they are threatened or coerced by others who then benefit from the proceeds. What is relevant to the current discussion is that a recognition of hardship and of unequal opportunities to avoid crime suggests not simply mitigation of the penalty, but also that **a State which seeks to guarantee a minimum acceptable standard of living and level of welfare to its citizens is obliged to offer to offenders the support and assistance which could make avoidance of crime a more realistic prospect**. This approach to justifying **rehabilitation has become known as ‘state-obligated’** rehabilitation (Cullen and Gilbert, 1982; Rotman, 1990; Carlen, 1994; Lewis, 2005), and rests on a version of social contract theory: the moral legitimacy of the State’s demand that people refrain from offending is maintained if the State fulfils its duty to ensure that people’s basic needs are met. Welfare States are the most familiar modern version of this social contract, and rehabilitation is not simply justified but mandated by the clear connection between social deprivation (or, in more modern jargon, social exclusion) and offending. Rotman also argues that there is a duty to provide rehabilitation to mitigate damage done by punishments such as imprisonment. Thus the obligation to meet needs is justified not simply by the Kantian appeal to the importance of people as ends in themselves (which McWilliams [1987] described as the ‘personalist’ approach to rehabilitation) but by a political theory of the duties of States and citizens to each other. As Rotman puts it, …**rehabilitation becomes a right of offenders to certain minimum services from the correctional services. The purpose of such a right is to offer each offender an opportunity to reintegrate into society as a useful human being** (1990, p. 6). Such approaches are also indirectly supported by a powerfully argued and well-evidenced body of work on the importance of perceived legitimacy in explaining why people obey the law (for example, Tyler, 1990). The basic argument is that people are more likely to comply with the law if they regard its demands as legitimate, and that they are more likely to do this if the law is administered and enforced with a high degree of procedural justice: for example, courtesy, objectivity, respect for rights, preparedness to listen to the views of those over whom authority is exercised, and in particular fairness and evenhandedness. It is not too fanciful to suggest that a criminal justice system which offers help to those who need it may be seen as fairer and consequently more legitimate in its demands. This adds another normative argument in favour of rehabilitation as a component in criminal justice and, if legitimacy promotes improved compliance, another instrumental argument as well. Other current models of rehabilitation, particularly those based on social learning theory and often delivered through ‘programmes’ (McGuire, 1995, 2002), **aim[s] to empower offenders to take more control of their lives and behaviour and to make more pro-social choices by helping them to learn necessary skills such as listening and communication, critical and creative thinking, problem-solving, self-management and self-control.** Such approaches recognize problems in relation to resources and opportunities but see little point in improving access to these without also ensuring that people have or develop the necessary skills to benefit from them.

Rehab values offenders’ participation in society in general, developing an their strengths and treating their deficits. **Raynor and Robinson 2:**

Finally, some recent approaches to justifying rehabilitation have begun to make use of a concept of community which, instead of excluding the offender, includes him or her as part of the community of interests to be addressed. Most of the arguments we have reviewed up to this point set the offender and ‘community’ or ‘society’ against each other, as if the offender is not part of a community which consists only of his or her potential victims. Hence the offender’s interests are always counterpoised to those of the ‘community’ and weighed against them, or assumed to be in conflict. Of course, there are areas of conflict, however, just as state-obligated rehabilitation is based on the rights that offenders share with other citizens even after they have offended, communitarian approaches to **rehabilitation recognize that offenders mostly belong to communities, and that their memberships and affiliations need to continue, or to be repaired, if they are to be reintegrated into normal membership of communities.** Such approaches are associated particularly with advocates of restorative justice (for example, Braithwaite, 1989) who believe that reintegrative processes can help offenders to atone for or make reparation for their offences at the same time as helping offenders and victims to learn something of each other. The aim is the restoration or establishment of social bonds that will both offer the offender membership of a community and consequently strengthen informal controls over his or her behaviour. Whilst some of these ideas are more usually found in discussions of restorative justice rather than rehabilitation, the **fact that offenders** involved in restorative procedures **are meant to learn a social lesson which will influence their future behaviour, places them** also **under the heading of rehabilitation**. One implication of this is that **rehabilitation should be seen not simply as meeting offenders’ needs or correcting their deficits, but as harnessing and developing their strengths and assets**. Similar arguments are also found in ‘strengths-based’ approaches (Maruna and Lebel, 2003) which justify rehabilitation on the basis of the contribution the rehabilitated offender can make to the community, and the community’s need for this contribution. “**Strengths-based and restorative approaches ask not what a person’s deficits are, but rather what positive contribution the person can make”** (Maruna and Lebel, 2003, p. 97).

The worry that rehab will underpin oppression is absurd; retributive systems are the cause of such harms. **Rubin[[17]](#footnote-17):**

**The concern that a rehab**ilitative theory of punishment **would authorize extreme techniques of thought reform and bio-chemical manipulation, for unlimited periods of time, is** essentially **a political fantasy**, at least within the context of our current political system. This idea is widely asserted by punishment theorists at present, 144 but its earliest articulation, so far as I can tell, is in a science fiction novel by C.S. Lewis. 145 In fact, **the criticism of rehabilitation as an inducement to abusive practices is** almost **certainly false when considered in the context of American corrections.** It has always been the doctrine espoused by the most progressive elements in the **correction[s]** al establishment. The rigors of the Auburn and Pennsylvania system may seem excessive, but they **were humane when compared to torture, or to the death penalty. The rehabilitative approaches** that followed **were generally more humane, and expressed a sincere concern for the felon as an individual**. Pavlovian thought reform, although theoretically consistent with the concept of rehabilitation, was never instituted to any significant extent in American prisons, even when Pavlov’s ideas were very much in vogue. 146 **If one wanted to catalogue the worst abuses in American corrections, one would** certainly **choose** the convict leasing system, the plantation model **prisons,** and the current Scylla and Charybdis of under-funding **and over-crowding, not those prisons that were organized along rehabilitative lines.** The claim **that reha**bilitation **would authorize indeterminately long sentences is equally a product of abstract academic alarmism. Indeterminate sentencing**, although sometimes justified on rehabilitative grounds, **was** widely used, and **misused**, **in situations where no effort to rehabilitate the prisoner was being made**. Nor were the lengthy sentences that sometimes resulted based on any definitive test for rehabilitation that the prisoner had failed to satisfy. Rather, the combination of indeterminate sentencing and discretionary parole was primarily employed to give prisoners an incentive to behave themselves when they were in the institution, and to enable prisons to delay the release of individuals who were deemed a continued danger to society. **The theoretical possibility that someone who committed a relatively minor offense would be retained for several decades because he was resistant to a rehabilitative program is** more **fanciful** than real. **It is during the retributivist era that such abuses have occurred**, generally as a result of recidivist statutes.

# (4/5) Under-View 1

**1.** If the neg win’s a new interp on T, just revaluate my offense under that interp. That checks back their abuse story and gives me necessary leeway since I speak in the dark and don’t know what to expect this early in the topic with multiple sufficient T-interpretations.

**2.** Aff gets RVIs **A)** **Strat-skew** neg gets flex in the NC and the 746 timecrunched 1AR. They can overcommit one the layer I don’t answer so I need structural compensation. Neg also is reactive the AC, which means their theoretical claims are checked by adaptability. **B) Topic Lit -** RVIs deter neg theory spread in the NC so only they solve back for substance debate on the topic.

**3.** Presume aff **A) Time-skew**. Affs lose 70% of outrounds. If the round’s a tie then I’ve done the better debating because I was structurally disadvantaged. **B)** We assume a statement to be true absent any reason to believe the contrary. If I tell you the door is open and you can’t give me any reason why it isn’t open then the door is open as far as your concerned.

**4.** Skep means you presume because you can’t be normatively compelled to vote for either side since you have no obligation to do so.

# (5/5) Under-View 2

**First,** *meta,* meta-analysis concludes rehab is better than retribution at preventing crime. **Lipsey and Cullen[[18]](#footnote-18):**

This review has attempted to catalog **[in] every meta-analysis that has been conducted on** studies of **correctional interventions** and summarize the most general and robust of their collective findings. Some of these meta-analyses have broad scope, some narrow. Some are elaborate and some are relatively simple. Some are very well done and a few are rather inept. Across this diversity, however, **there is striking consistency** on a two key points. **First, every meta-analysis** of studies that compare recidivism outcomes for offenders receiving greater versus lesser or no sanctions has **found**, at best, modest mean recidivism reductions for **the greater sanction**s and, at worst, **increased recidivism** for that condition. Second, every meta-analysis **[and] of** large samples of studies **comparing offenders who receive rehabilitation treatment with those who do not has found lower mean recidivism for those in the treatment conditions.** Moreover, **the least of those mean reductions is greater than the largest mean reductions reported by any meta analysis of sanctions**. In addition, **nearly all of the meta-analyses of studies of specific rehabilitation treatments or approaches show mean recidivism reductions** and the great majority of those are **greater than the largest** reductions **found in any meta-analysis of sanctions.**

**And,** retributivism is disproportionate. **Bedau and Kelly[[19]](#footnote-19):**

**All retributive attempts to specify the** penalty schedule linking crimes to their **punishments fail because the proportionality principle underdetermines** the schedule. **[them] There is no nonarbitrary way to locate either the end points of maximum and minimum severity defining the penalty schedule or the intervals between adjacent punishments** (Pincoffs 1977). Without more information **it is impossible to calculate which crimes deserve which punishments; an infinite number of different penalty schedules are equally consistent with the retributivist's proportionality principle**. And retribution cannot supply the further information needed. As a result, **every penalty schedule purporting to incorporate retributive principles exclusively fails** to the extent that any given punishment cannot be justified by those principles alone.

**And,** desert-based theories of punishment are incompatible with the deterministic nature of human action. **Koehler[[20]](#footnote-20):**

Last year’s Christmas edition of the New Statesman, guest-edited by Richard Dawkins, included an essay by Sam Harris on the ‘[Free Will Delusion](http://www.newstatesman.com/blogs/the-staggers/2011/12/free-author-neuroscientist)’. The essay built on some of his earlier work (summarized neatly in one of his blog posts [here](http://www.samharris.org/blog/item/morality-without-free-will/)). According to Harris, …the truth is that **free will doesn't** even **correspond to any subjective fact about us**, for introspection soon grows as hostile to the idea as the equations of physics have. **Apparent acts of volition merely arise, spontaneously** (whether caused, uncaused or probabilistically inclined, it makes no difference), **and cannot be traced to a point of origin in the stream of consciousness.** A moment or two of serious self-scrutiny, and you might observe that **you decide the next thought you think no more than you decide the next thought I write.** Piqued your interest much? Thought so. Mine too. **The implications of** the free will/**determinism debate are profound,** and especially so for criminology, where we obsess about the concepts of blame, guilt, and responsibility. **If “choice” is extracted from the calculus of human action** – as might be suggested by proponents of determinism, say – **then** many of the **foundational belief structures** and institutions on which **the legal system** is based **are** pretty much entirely **redundant**. Consequently, the perspective offered by a neuroscientist claiming that free will is a “delusion” would be significant indeed. Harris highlights that the US Supreme Court openly acknowledged the centrality of free will as one of the “universal and persistent” guiding principles of the criminal justice system, distinct from “a deterministic view of human conduct that is inconsistent with the underlying precepts of our criminal justice system” ([United States v. Grayson](http://supreme.justia.com/us/438/41/case.html), 1978). **The importance of [free will]** which side of the debate on which the court falls **is particularly salient for understanding** how it deals with crime. According to Harris, **this is the very basis for a popular retributive appetite**; crucially, Harris contends that **[and] this basis is misplaced.**

**And,** rehab is wildly popular. Voters want legislation for it. **Krisberg and Marchionna[[21]](#footnote-21):**

**By almost an 8 to 1 margin (87% to 11%), the US** voting **public is in favor of rehabilitative services for prisoners as opposed to a punishment**-only system. Of those polled, **70% favored services both during incarceration and after release from prison.** Only 14% of those polled thought that people coming out of prison were less likely to commit new crimes than they were before imprisonment. Over 50% thought the likelihood was at least the same, while 31% thought that the likelihood of new crime was greater after prison than before. By strong majorities, **US voters feel that a lack of life skills, the experience of being in prison, and obstacles to reentry are major factors in the rearrest of prisoners after release**. Few thought that criminality is inherent. By an overwhelming majority (82%), likely voters felt that a lack of job training was a very signiﬁcant barrier to released prisoners avoiding subsequent crime. They also thought that medical care, the availability of public housing, and student loans are important (86%, 84%, and 83% respectively). By huge margins, those polled felt that job training, drug treatment, mental health services, family support, mentoring, and housing were all very important services that should be offered to prisoners. Less than 10% of those polled (only 2% in the case of job training) thought that these services were unimportant. Of those polled, 44% felt that planning for reentry should begin at sentencing, another 27% thought it should begin 12 months prior to release. Only 7% were not in favor of planning for reentry. **When asked about pending legislation that would allocate federal dollars to prisoner reentry (The Second Chance Act), 78% were in support. Of those, almost half expressed strong support.**

Psychological bias means retributivists will disproportionately punish. **Dripps[[22]](#footnote-22):**

FAE **[attribution error] has troubling implications for the retributivist**’s **project** of rationally assessing blameworthiness. The character-based approach directly embraces the project of inferring personality traits from behavior. This is the very **inference that the psychological research suggests human observers will make too readily**. Consider, in this regard, the Fidel Castro essays, the quiz master experiment, or the foul shots taken in a dimly lit gymnasium. In these experiments, **observers held actors responsible despite the observers’ knowledge of very serious situational constraints**. Indeed the term “correspondence bias” refers precisely to the tendency to associate behavior with a corresponding trait. In the choice approach, the problem recurs. FAE [**attribution error] predisposes observers to exaggerate both volitional capacity and fair opportunity to resist situational pressure**. A choice theorist who does not repudiate situational excuse altogether admits that some bad choices are not blameworthy. As a result of FAE, however, in deciding how hard a choice the actor faced, **observers will tend to attribute the choice to the actor’s character rather than the situation.** FAE tends to magnify the causal significance of the defendant’s conduct relative to other factors. **Observers predisposed to believe that the world is just need to identify personal**, rather than impersonal, **causes for negative events. Compounding** this tendency **is** the so- called **hindsight bias, which inclines observers** *ex post* **to believe that actual events were probable** *ex ante* **even when they were not.** This, in turn, inclines observers to infer intention, knowledge, or recklessness from the foreseeability of events that were in fact not foreseeable. Harm-based **retributivists, with their focus on causing or risking harm, invite the tendency of observers to commingle fault with causation**, amplified by the hindsight bias. A purely subjectivist culpability theorist, by contrast, considers the actor eligible for punishment based on his subjective awareness of wrongdoing. This may disadvantage the government unduly, as those who focus on the person rather than the situation interpret failed attempts as innocent accidents and harmless recklessness as due care. As the utilitarians have pointed out, **retributivists have** some **difficulty in determining the amount of punishment required by any given instance of culpable wrongdoing**. To the extent **that retributivists rely on intuition or the sense of the community to measure proportionate punishments**, FAE suggests that **officials attempting to follow retributive theory will overpunish. Their intuitions will tend to overassess personal as opposed to situational factors at the time of the wrongdoing.**

**So,** I affirm.

# Frontlines

## AT Util Turns

**1.** Cross apply the **Interp –** the res is a question of which system has better values; questions of policy action are irrelevant. Means your arguments are irrelevant because they only come as the consequences of a specific action.

**2.** Cross apply **Dorsey –** we can’t know the consequences of our actions because we are epistemically unsure of what may come in the future and our preconceived notion of what will happen changes due to local variance.

**3.** Cross apply **Silva 1 –** consequentialism abstracts itself too far from individual lives by focusing only on the general good. It can’t be applied to real situations because it doesn’t adjust to the persons who they concern and can’t reconcile subjective goods.

**4.** I outweigh – it’s specific to my standard of helping offenders live worthwhile and virtuous lives. Their general social impacts don’t have anything to do with a person’s specific ability to pursue meaning.

## AT Relativism

**1.** Cross apply **Silva 2 –** in the un-underlined text he says virtue ethics is distinct from relativism - it’s moral contextualize. It still grounds objective statements like certain pluralistic goods are morally valuable or that people ought to be able to pursue meaningful lives.

**2.** Virtuous tradition is distinct from relativism – it’s subject to change and external scrutiny. **Silva[[23]](#footnote-23):**

From the above quoted passage, MacIntyre does not conclude that traditions are closed spheres, unable to enter into dialogue; neither does he claim that traditions are opposed to reform. In order to avoid the danger of relativism, he draws on debates in the philosophy of science and establishes an analogy between epistemological and cultural crises inside a tradition. **Even when a tradition is based on authoritative texts, these texts can receive different interpretations, and one can detect incoherencies in the corpus of taken for granted texts**. Moreover, as MacIntyre claims, **the emergence of new situations or problems and contacts with other traditions can also stimulate critical reflection inside a tradition** (cf. MacIntyre, 1988: 355). As a result there are three stages in the development of a tradition: A first in which the relevant beliefs, texts, and authorities have not yet been put in question; a second in which inadequacies of various types have been identified, but not yet remedied; and a third in which response to those inadequacies has resulted in a set of reformulations, reevaluations, and new formulations and evaluations, designed to remedy inadequacies and overcome limitations. (MacIntyre, 1988: 359) MacIntyre’s account of tradition is assumedly anti-Cartesian, because the rationality of traditions, far from presupposing “self-sufficient, self-justifying epistemological first principles”, has a “dialectical and historical” character (MacIntyre, 1988: 360). Inspired by the work of philosophers of science like Kuhn and Lakatos, **MacIntyre attempts to conciliate its defence of the epistemological role of traditions with a rejection of relativism**. The following passage provides a good illustration of this strategy: **It may happen to any tradition-constituted enquiry that by its own standards of progress it ceases to make progress**. Its hitherto trusted methods of enquiry have become sterile. Conflicts over rival answers to key questions can no longer be settled rationally. (…) this kind of dissolution of historically founded certitudes is the mark of an epistemological crisis. The solution to a genuine epistemological crisis requires the invention or discovery of new concepts and the framing of some new type or types of theories. (MacIntyre, 1988: 362) In this context, MacIntyre suggests that **members of a tradition may, in such crises, acknowledge the superiority of other traditions. It can also happen that a tradition is unable to solve its crises, and such a failure is a sign that there is something fundamentally wrong in it.**

## AT Can’t Be Applied to the State

**1.** Cross apply Silva 2 – indicates that for the legal system and the state to function they must acknowledge pluralistic goods and avoid just sweeping generalizations. Virtue is uniquely key.

**2.** The state’s use of virtue ethics increases its benefits. **Ward[[24]](#footnote-24):**

Andre (2002) has recently proposed that communities and institutions can be assessed from the perspective of virtue theory. **First, the culture of a community or an institution might facilitate the flourishing and well-being of individuals through the nature of its policies and practices** independently of the character traits of the individuals who work, or live, within it. A community with harsh law and order policies where offenders are viewed as moral strangers is unlikely to make a significant effort to welcome them back once they have served their sentences. Second, a **prison with an anti rehabilitation culture may regard offenders’ psychological problems as ethically irrelevant and fail to appreciate the extent to which subsequent disciplinary infractions are, at least partially, caused by them**. Andre suggests that **stable features of institutions can be conceptualized as analogous to character traits in individuals and therefore, be the subject of ethical evaluation.** In the above two examples the institutionally rooted pejorative view of offenders and lack of appropriate concern for their suffering reveals a considerable degree of callousness and lack of empathy, both serious moral flaws (vices). I suggest that **scrutinizing criminal justice systems from this viewpoint would further boost** Bersot and Arrigo’s overall argument for **the utility of virtue ethics**. It seems to me that **neither Consequentialism nor Formalism has the theoretical resources to extend their scope in this way**.

# Cards

**C) Pre-Requisite** – **Raynor and Robinson[[25]](#footnote-25):**

At the outset, it is important to realize that **this is not** simply a matter of deploying evidence **about effectiveness.** In recent years, we have tended to take for granted that the most important question to ask about rehabilitation is ‘What works?’ or, in other words, what means can we use to pursue our goals in the most effective manner? There has been less discussion about what those goals should actually be. Usually, the implied goal seems to be less re-offending by sentenced offenders, but other versions of **rehab**ilitation **[has]** have **pursued** very **different goals**: for example, the salvation of human souls, or the healing of damaged relationships, or a greater sense of safety or security in the everyday life of communities. These different goals **[that] reflect** the different valuesplaced on **different** kinds of **outcomes**, and these values themselves often **[that] draw on further assumptions about human nature** or human purposes. Consequently, the **arguments** in this article **are** to some extent **conceptual,** concerned with the logical implications or assumptions of particular kinds of ‘rehabilitation talk’. The point of this kind of argument is that **if our goals are** normally **taken for granted** rather than discussed, **they** can **become** confused or **incoherent. Justifications for rehab**ilitation **are** essentially **moral arguments about what society ought to do** in relation to offenders, and arguments about what we ought to do **[that] cannot** simply **be derived from evidence about what we can do**: there are plenty of things we can do which we clearly ought not to do.

*The double-effect of an action cannot ground reasons against taking such an action. This is particularly true in the context of the legal system.* ***Wedgewood[[26]](#footnote-26):***

*The fundamental idea behind the DDE* ***[double effect] is deeply engrained in*** *a great many traditions of serious moral thinking – including* ***legal and philosophical thinking****, as well as religious thinking. Thus, for example, in the law, this idea reappears as the distinction between (i) ‘direct’ or ‘purposeful’ intention, and (ii) the ‘oblique intention’ (as is often confusingly called), which consists simply of the effects that the agent knew the act to be likely to produce. This distinction is relevant to the law in two main ways.* ***First,*** *there are several* ***criminal offences*** *that essentially* ***involve a direct or purposeful intention (as opposed to a mere oblique intention****); for example, the DDE plays a fundamental role in the laws regarding the conduct of military personnel in warfare.* ***Secondly, even with criminal offences that do not require a direct intention, such a direct intention will normally count as an aggravating circumstance****, increasing the gravity of the offence.8 So I believe that the DDE* ***[double effect] is presupposed by*** *a large number of* ***moral beliefs*** *that have been accepted by a large and diverse collection of moral thinkers, over a long period of time.* ***Our default assumption should be that any idea that has been presupposed by a wide moral range of moral beliefs that have been comparatively stable over time and across cultures is likely to contain*** *some* ***truth*** *buried inside it somewhere. There is also another reason that many people have for accepting this doctrine – although unfortunately I shall not be able to set out this reason in detail here. Many of us have clear intuitions about a certain range of cases, and the DDE seems to provide the best explanation of these intuitions. Some of the philosophers who reject the DDE have tried to outline alternative explanations for our intuitions about these cases, while other philosophers, who support the DDE, have tried to cast doubt on these alternative explanations.9 In this way, these cases have already been extensively discussed by a large number of other philosophers. To save time, I shall avoid getting into this dispute here (although it does seem to me that the defenders of the DDE have had stronger arguments). Instead, I shall make a quick suggestion about what might explain why the DDE is true. One particularly notable explanation of the DDE is that of Thomas Nagel (1986, 181). According to Nagel’s explanation, what is especially bad about executing an intention to bring about a bad state of affairs is that in such cases, your ‘will’ is being ‘guided by evil’.10 My explanation of the DDE is broadly similar to Nagel’s, except that I see the DDE as ultimately just an instance of a larger phenomenon. According to my explanation,* ***whenever the consequences of an act include a bad state of affairs, this grounds a reason against the action; but the strength of the reason does not depend*** *purely* ***on the badness of this state of affairs, but*** *also* ***on what I have called the agent’s ‘degree of agential involvement’*** *in bringing about this state of affairs.11 Broadly speaking, I suggest that there are two dimensions along which one can be to a greater or lesser degree ‘agentially involved’ in bringing about a state of affairs: the first dimension is causal; the second dimension is intentional. Along the causal dimension, there is a crucial difference between actively causing a state of affairs and merely failing to prevent that state of affairs (in effect, this is what many philosophers think of as the distinction between doing and allowing). If you merely fail to prevent a state of affairs from coming about, then your degree of agential involvement in bringing about that state of affairs is much less than if you actively cause that state of affairs to come about. In addition to this causal dimension of agential involvement, there is also the intentional dimension. Other things equal,* ***your degree of agential involvement in bringing about a state of affairs is greater if you directly intend that state of affairs than if you do not intend that state of affairs – even if you foresaw that your act was likely to result in that state of affairs****. Your agency is more involved with a consequence of your act that you intended than with a consequence that you did not intend. When your action has a bad consequence, the more agentially involved you are in bringing about that consequence, the worse the act itself will be. The bad consequence is more intimately connected to the act, and so the badness of the consequence is more strongly reflected in the badness of the act. In general, the badness of the act itself could be identified with the weighted sum of the degrees of badness of each of the act’s consequences – where the degree of badness of each consequence is weighted by the degree of agential involvement that the agent has in that consequence. This then is my explanation of why the DDE is true. According to this explanation, the DDE flows from a completely general feature of reasons for action: namely, in the significance for reasons for action of the agent’s degree of agential involvement in the consequences of the act. So the DDE is not just a widely-accepted idea that is supported by a wide range of intuitions; it* ***[double effect] can*** *also be* ***explained as flowing from a pervasive and fundamental feature of the whole normative domain.***

***3.*** *Cross apply* ***Wedgewood –*** *we aren’t morally responsible for the consequences of our actions because only intent is sufficient to ground moral culpability. One cannot be held accountable for a consequence since it cannot ground a reason against intent to commit an action.*

Valued is ‘highly regarded or esteemed’[[27]](#footnote-27) so the res doesn’t prescribe action. My def controls the internal link into any other standard because without it we don’t know what we’re debating in the first place. I have the best def - first seven results that come up on Google indicate that it’s right. Open access dictionaries are the best gauges because they don’t exclude and are the first usages found.

**Real-world** – **Bronsteen[[28]](#footnote-28):**

**Retributivists,** for their part, **emphasize that good consequences or increased utility do not** seem to **capture the true reasons we find punishment morally acceptable or even required. We** tend to **cringe at punishing the innocent even if we know that doing so under certain circumstances could increase utility**. And we typically feel that **the decrease in happiness that punishment creates for a sadistic murderer is not a morally regrettable feature that we accept** in order to improve the welfare of others, but rather something inextricably **linked to the moral rightness of the punishment.**

**Ward[[29]](#footnote-29):**

In this paper, I argue that **every rehabilitation program presupposes conceptions of possible good lives for offenders and,** associated with this, **an understanding of the necessary internal and external conditions for living such lives.** By the term ‘‘good lives’’ I am referring to ways of living that are beneficial and fulfilling for individuals. The primary goods comprising good lives are outcomes sought by individuals for their own sake and typically reflect propensities evident in basic human needs. The conception of a possible good life for an offender should also include a concrete understanding of the possible ways of living that are realistic for him or her. It should take note of each offender’s capabilities, temperament, interests, skills, deep commitments (i.e., basic value system and preferred ways of living in the world, for example, as a teacher or provider), and support networks. The notion of primary goods overlaps to some extent with other motivational constructs outlined in research on psychological wellbeing. For example, the goals associated with personal strivings (Emmons, 1996) and the domains of life satisfaction identified by Cummins (1996), that is, material well-being, health, productivity, intimacy, safety, community, and emotional well-being. **The conception of good lives or well-being that underlie rehabilitation programs is what gives them their directedness. It effectively links identification of risk factors or psychological problems with the desired outcome of reduced recidivism**. In other words, a necessary condition for the reduction of offending is the instillation of ways of living that are more fulfilling and coherent. That is, individuals are unlikely to refrain from offending if their lives are characterized by an absence of valued outcomes. In fact, I suggest that **one of the reasons individuals commit crimes is that they are perceived to be rewarding in some ways, a criminal lifestyle represents one way of achieving personal goods** (Ward & Stewart, in pressPsychology, Crime & Law). It may be the only way of living that is judged capable of this outcome. Thus, one of my core assumptions is that, in order to rehabilitate offenders, it is necessary to instill in them the skills, knowledge, and resources to live different kinds of lives.

**Adams[[30]](#footnote-30):**

Before we begin, I need to clear up a potential confusion around the meaning of “rehabilitation.” The standard usage of “rehabilitation” is to “refer to cases in which the offender, after serving a sentence, no longer commits crimes because he believes that criminal behavior is wrong and not because he fears punishment” (Ten, 7, note 1). So authors generally distinguish rehabilitation from special deterrence on the basis of the motivating reasons for the criminals ’ subsequent law abiding behavior. **Rehabilitated criminals stop their crimes because they think breaking the law is wrong.** Deterred criminals stop because they want to avoid more punishment. But both stop committing crimes, so **they are** both “**deterred” in a broader sense**. On this standard usage, **we could use “rehabilitation to theoretically refer to any method which gets the criminal to stop for moral reasons**. So traditional **modes of** pain and suffering associated with **punishment—even cruel and unusual punishment—could be called rehabilitation** if they convince the criminal to stop breaking the law because she thinks breaking the law is immoral

**Duff[[31]](#footnote-31):**

Second, there are questions about the relation between theory and practice—between the ideal, as portrayed by a normative theory of punishment, and the actualities of existing penal practice. Suppose we have come to believe, as a matter of normative theory, that a system of legal punishment could in principle be justified—that the abolitionist challenge can be met. It is, to put it mildly, unlikely that our normative theory of justified punishment will justify our existing penal institutions and practices: it is far more likely that such a theory will show our existing practices to be radically imperfect—that legal punishment as it is now imposed is far from meaning or achieving what it should mean or achieve if it is to be adequately justified. If our normative theorising is to be anything more than an empty intellectual exercise, if it is to engage with actual practice, we then face the question of what we can or should do about our current practices. The obvious answer is that we should strive so to reform them that they can be in practice justified, and that answer is certainly available to consequentialists, on the plausible assumption that maintaining our present practices, whilst also seeking their reform, is likely to do more good or less harm than abandoning them. But for retributivists who insist that punishment is justified only if it is just, and for communicative theorists who insist that punishment is just and justified only if it communicates an appropriate censure to those who deserve it, the matter is harder: for to maintain our present practices, even while seeking their radical reform, will be to maintain practices which perpetrate serious injustice (see Murphy 1973; Duff 2001, ch. 5). Third, the relation between the ideal and the actual is especially problematic in the context of punishment partly because it involves the preconditions of just punishment. That is to say, what makes an actual system of punishment unjust(ified) might be not its own operations as such (what punishment is or achieves within that system), but the absence of certain political, legal and moral conditions on which the whole system depends for its legitimacy (see Duff 2001, ch. 5.2).

**Rasmussen[[32]](#footnote-32):**

Human flourishing is an objective good. In terms similar to those used by Socrates in his question to Euthyphro,5 human flourishing is an object of desire and choice because it is desirable and choiceworthy, not simply because it is desired or chosen. In other words, it is desired because of what it is. Its constitution is what makes it good. Thus, human goodness is something ontological. It is a state of being, not a mere feeling or experience.6 Ontologically considered, human flourishing is an activity, an actuality, and an end (or function). Human flourishing is a way of living that consists in certain activities. Omne ens perficitur in actu: flourishing is to be found in action. It is not something static. These activities are those that both express and produce in a human being an actualization of potentialities that are specific to its natural kind.7 Finally, these activities also constitute the achievement of a human being's natural end or telos. Human flourishing is that-for-the-sake-of-which human conduct is done, and though flourishing is dependent on human agency for its achievement, it does not depend on such agency for its status as the ultimate end. Obviously, the foregoing ontological considerations are complex and require further explanation. We will return to their discussion later when we explore the relationship between human flourishing and human nature. Before doing so, however, we need to grasp some of the other central features of this account of human flourishing, because they affect the character of that relationship. 2. Human flourishing is the ultimate end of human conduct, but it is not the only activity of inherent worth. It is not a "dominant" end that reduces the value of everything else to that of a mere means. Neither is it monistic and simple. Rather, it is "the most final end and is never sought for the sake of anything else, because it includes all final ends." Human flourishing is an "inclusive" end.9 It comprises basic10 or "generic" n goods and virtues—for example, such goods as knowledge, health, friendship, creative achievement, beauty, and pleasure; and such virtues as integrity, temperance, courage, and justice. These are valuable not as mere means to human flourishing but as partial realizations or expressions of it. As such, these goods and virtues are final12 ends and valuable in their own right.

**Hatab[[33]](#footnote-33):**

**Moral philosophy must give up** the model of ethical "theory," **the insistence on rational justification, and the privileging of abstract principles over concrete situations. Ethics should be understood as the heuristic engagement of** basic practical questions: **How should human beings live**? How should we live together? What are better and worse ways of conducting our lives? Moreover, **ethics must acknowledge** a prephilosophical, **traditional heritage that presents us with a degree of consensus ahead of time** regarding better and worse ways of living (this is an Aristotelian point reaffirmed by Heidegger). **Taking our own society, we tend to agree** already in a rough fashion and to a certain extent **that lying, stealing, and killing are undesirable actions**, that injustice, violence, cruelty, and indifference are worse than fairness, kindness, and concern. I dare say that such values are not unique to our culture or time either. **The task of philosophy would not be to put our entire moral outlook into question or to discover some brand new system of values** (nothing so radical has ever happened in history. Rather, **moral philosophy should engage** a fivefold task: 1) Analyze moral values as a cultural phenomenon. 2) Clarify the meaning of the values and norms we inherit. 3) Ask the question: Why should people be ethical in this way? This question is not a call for demonstration or proof to banish doubt or disagreement, but rather **an existential and pedagogical question to address the developments, conflicts, and tensions in the ethical life.** In other words, moral philosophy should be inseparable from moral education. 4) Ask the related question: How do people become ethical or unethical? What conditions or attributes or developments are involved in actualizing or blocking ethical potential? 5) Submit the tradition to critique, to uncover internal inconsistencies, conflicts, or failures, and to discover innovations needed to revise or alter tradition. Given the difficulties that moral philosophy has faced so far in meeting this task, I think that ethics could benefit from Heidegger's thought in a way comparable to his revision of traditional ontology. Heidegger never claimed that rational or metaphysical models of thought are false or dispensable, only that they are not primordial enough, that something is concealed in their disclosures -- the radical finitude of Being -- that needs drawing out to renovate our thinking about the world. Heidegger also never denied the importance of ethics or the need for it in our critical time of history. I would propose an analogy between Heidegger's approach to traditional ontology and a possible approach to ethics. **Traditional ethical theories** are not false or dispensable; they all show us something important about morality. But they **have missed** or covered over **the radical finitude of human existence and the preconceptual lived world**, attention to which can renovate our thinking about ethics. So the ethics that is put in question would be the traditional philosophical and metaphysical presumptions about moral values, and not the matter (die Sache) of how we should live our lives. If we attend in a Heideggerian manner to the existential environment (being-in-the-world) in which and out of which the ethical life arises, **such a "pre-ethical" analysis should give us clues for a more adequate ethics** in regard to its fivefold task described above. In the light of Heidegger's thought, **ethics can be seen as a finite, existential**, ungrounded **world dynamic**, a configuration that I think can significantly improve upon traditional models in moral philosophy. The task for **ethics should not** be the **search for a theory or principle that can survive rational scrutiny, that can satisfy the objective cognitive standards inherited from traditional logic and the sciences, that can give us clear and certain criteria to guide adjudication -- the orientation in such directions already means that ethics has been distorted from the start. We already are shaped by ethics, before we reflect on it.** We must attend to this prereflective ethical world to better understand how values function in our experience, to open up the ethical life, its conditions, demands, and difficulties. In this way **ethics is** not simply a philosophical specialty, but **a social project that keeps the existential claim of morality alive as an issue that people must continually engage.** And I think that Heidegger's constellation of being-in-the-world can be effectively translated to prepare such an approach: The radical finitude of being-toward-death in connection with care, the threefold structure of understanding, disposition, and discourse, thrownness, Mitsein, and especially the dynamic between fallenness, everydayness, and authenticity--all this can be applied to our being-ethical-in-the-world. Now let me attempt to work out some details of this application.

**Brinkmann[[34]](#footnote-34):**

In the remainder of the article, I shall be concerned with two aspects of human finitude from an existential-phenomenological viewpoint: vulnerability and interdependency. The first aspect concerns the fact that **humans, because of their facticity, can be hurt, be injured, and die.** “I am continually dying,” says Marx (1992, p. 48), in his attempt to extend Heidegger (1927/1962) further. The other aspect concerns the fact that **human lives are interdependent**. K. E. Løgstrup (1956/1997) says, “A person never has something to do with another person without also having some degree of control over him or her” (pp. 15-16). **We are** factically, that is, **ontologically, social beings**, but in contrast to constructionists, who also advance this claim, Løgstrup’s phenomenology seeks to disclose the unavoidable ethical demands that arise from human ontological sociality. Our lives are such that they presuppose certain facts prior to convention, thought, and will (Fink & MacIntyre, 1997). The history of phenomenology in a broad sense begins with Aristotle. In contrast to Plato, who sought universal truths in the ideas behind appearances, Aristotle always insisted on examining appearances closely. His main “rule” of inquiry dictated, Here, as in all other cases, we must set down the appearances [*phainomena*] and . . . in this way go on to show, if possible, the truth of all the beliefs we hold . . . and, if this is not possible, the truth of the greatest number and the most authoritative. (Aristotle, as cited in Nussbaum, 1986, p. 240)2 **Phenomenologically, the human being appears as a finite and vulnerable creature, and this** appearance **is truly authoritative**, according to Aristotle. In his *Nichomachean Ethics*, he discusses the extent to which **the good life,** that is, the life well lived (*eu- daimonia* in Greek), **is dependent on contingent circumstances and resources beyond the person’s control** (see Nussbaum, 1986). To what extent is the good life vulnerable? Aristotle rejects two extreme positions. First, some people believe that living well is a gift from the gods. And it does seem evident that luck and good for- tune have a significant role to play in human affairs: Children are born, without having any influence on it, into rich or poor families and societies; they are perhaps attractive or ugly, in good health or sickly, intelligent or less so. All this—which, in the eyes of the Greeks, codetermines *eudaimonia*—is a matter of luck, and so the good life is vulnerable. The other extreme view states that luck does not matter at all in living well. The good life is invulnerable. The agent herself is the only relevant causal factor as to whether she will flourish. Mainly philosophers, and Plato among them, held this view. In the *Apology*, Plato has Socrates saying to the judges that no evil can happen to a good man, either in life or after death. Aristotle himself defends an intermediate position, which is beautifully explored in Martha Nussbaum’s (1986) book *The Fragility of Goodness*. **To live well, people must acquire certain virtues or excellences: intellectual virtues, such as the capacity for good judgment** (*phronesis*), and moral virtues or excellences of character, such as courage, temperance, and justice. We acquire these excellences, Aristotle thought, through a process of habituation and character formation. **Goodness of living requires that our well- formed characters, our powers of perception and discernment, come to expression in activity** (Nussbaum, 1986, p. 340). **It is activities, not their consequences or my state of mind in performing hem, that are “the ultimate bearers of value**” (Nussbaum, 1990, p. 59). **Activities as bearers of values are something we engage in for their own sake and not for the sake of something else.** If I have dinner with my friends to obtain some other end, a reward, for example, then I fail to be excellent or virtuous. **This activity has intrinsic value, so if I take it as a means to something else, I fail to act in accordance with its values, and therefore I fail to be good.** The same argument can be applied to sports, art, justice, love, and perhaps also to science, nursing, and teaching. Aristotelians find that **human beings need to participate in such practices to live well. This is how we factically are. It means that the good life becomes at least partially vulnerable and susceptible to luck**. Domy family, community, and society provide me with adequate access to such valuable activities? If not, I may be unable to live a good life. But if we *are* provided with adequate external conditions, and if we are fortunate enough to have had good educators, then we are not mere victims of luck but in fact are responsible for cultivating those excellences in ourselves that enable us to engage in such activities that are the bearers of value (Nussbaum, 1986, p. 329). This, in rough outline, is Aristotle’s intermediate position between the view that the good life is a matter of pure luck and the view—the ethics of infinitude—that the good life is invulnerable. Aristotle thought that **people who live well** (the *eudaemon*) **are vulnerable because they have a lot of virtues or excellences**. The loss of some activity, or perhaps of life itself, is a greater loss to the excel- lent person than to the base (Nussbaum, 1986, p. 336). In fact, as Nussbaum (1986) says, excellence “diminishes self-sufficiency and increases vulnerability” (p. 336). **The excellent person is more vulnerable because he or she has more to lose. Thus vulnerability is not something that should be *resisted* or *redescribed*, for it is an existential condition for the good life.** Another good reason to consider the role of vulnerability and finitude in moral inquiry is outlined by Hans Jonas (1992). Jonas argues that mortality is not just a terrible burden but also a blessing**. Without mortality and vulnerability, there would be no values in the universe**, he claims. **We cling to what we value, but we cling only to what can be taken away**. Mortality, Jonas says, is the narrow gate through which, alone, value enters an otherwise indifferent universe. **If we were invulnerable, such virtues as courage, endurance, self-sacrifice, or a lasting devotion to justice would be inconceivable.** These virtues, which are part of what we consider **a good life, presuppose existential finitude and vulnerability.** So according to both Aristotle and Jonas, **values are possible only for finite beings. Mortality is a condition for morality.** Marx has formulated an analogous argument based on his attempt to extend Heidegger further. Marx finds that our **mortality “is a constituent in the truth of our being**” (Marx, 1992, p. 45). But unlike Heidegger, who found the proper response to the experience of finitude in resoluteness, Marx finds that **the proper response is the realization that one is not alone in being mortal. Realizing the facticity of mortality thus breeds solidarity, compassion, and care of the other. These ethical ways of responding are, to repeat, possible only for finite beings**. We are all “given over” to the same finitude, or in the words of Heidegger interpreter John Caputo, “we are a community of mortals bound together by our common fears and lack of metaphysical grounds” (Caputo, 1987, p. 259). **This is the ground of ethical life.** Marx builds on Heidegger’s fundamental ontology, which is “an ethics in that the analysis of Being-in-the-world articulates what it means to dwell on the earth as a mortal” (Vogel, 1994, p. 4). And for humans, **being mortal always means being mortal together, and this is the ground for ethical life**. The Danish phenomenologist Løgstrup has described the ethical demand that exists **because of the fact that we are interdependent beings. There is a pretheoretical interdependency between human beings**.

**Hatab 2:**

One of the consequences of Mitsein for ethics is that we are liberated from the philosophical problematic of "arguing" for a social context to challenge egoistic or individualistic paradigms. In various ways the individual is others, relationships come first. Being-in-a-with-world suggests the following: Like other conditions that Dasein is in, that are there, in which Dasein ecstatically dwells, **the individual self and other selves are not separate or even merely in a "relation." We are co-constituted by each other, we "exist" in each other in certain ways** (being "in" love is a significant example). Such a structure provides an effective challenge to the hegemony of liberal individualism and its effect on moral discourse since the Modern period. Consider the following passages from Basic Problems: "**Self and world belong together in a single entity**, the Dasein" (p. 297). **Since other selves are part of the world, a unitary constellation of selves is implied**: "Dasein is determined from the very outset by being-with-others" (p. 296). Even the I-thou relation is something made possible by a more primordial world correlation: "**The basic condition for this possibility of the self's being a possible thou in being-with others is based** on the circumstance that the Dasein as the self that it is, is **such that it exists as being-in-the-world.** For `thou' means `you who are with me in the world'" (pp. 297-98). Such a structure opens up the topology of ethical relations. Since "self" is not ontologically individuated in the strict sense, even the "mineness" of Dasein does not suggest a confinement to individual self-interest, but rather an openness to the interests of others. The for-sake-of-itself of Dasein "does not assert ontically that the factual purpose of the factical Dasein is to care exclusively and primarily for itself and to use others as instruments (Werkzeug) toward this end" (p. 296). In fact, selfhood as a world phenomenon is "the ontological presupposition for the selflessness in which every Dasein comports itself toward theother in the existent I-thou relationships" (p. 298). The idea that Dasein dwells with and in others helps us illuminate a phenomenon that is often addressed in ethics, namely compassion. Some moral philosophers have made compassion the centerpiece of their ethics (e.g., Hume and Schopenhauer), and I think the notion of finite being-in-the-world can go a long way toward strengthening such reflections and opening up important possibilities for moral philosophy. Many of our values prescribe that we help others in need and refrain from abusing each other. The presence of compassion can be an effective force in living out these values (and its absence can account for not living them out). As shown in the words compassion, sympathy, and Mitleid, here we encounter an experience that "suffers-with," i.e., we share the pain of others. Compassion occurs when someone's misfortune actually touches us and alters our experience toward their pain, and "calls" us in a visceral way to do something about it. The marvel of compassion is that the pain arises in us even when we ourselves are not directly undergoing the misfortune. How is something like this possible? I think that the notions of Mitsein and being-in help to show how compassion is possible, and indeed the phenomenon of compassion is a perfect illustration of the existential validity of Heidegger's configuration of being-in-the-world. **In compassion we are decentered, desubjectivized, our experience dwells in the other,** and so it can not be understood as a subjective or objective condition, but rather as a curious, compelling, ecstatic being-with-the-other. Compassion, then, may be the deepest indication of Mitsein. There are a number of studies suggesting that **compassion is something natural in humans, even in very young children,** that **it is not simply a matter of social conditioning.** If this is right, then **moral theories like egoism or utilitarianism** that focus exclusively on self-interest **are seriously flawed**. But indifference might be no less natural, either. Nevertheless the issue of compassion and indifference can be given more force if we see them as basic existential conditions; this would deepen ethical discourse to the heart of our being. Might it be, for example, that compassion is a basic ethical disposition (Befindlichkeit) or mood (Stimmung) that attunes us to the moral life in a way that mere knowledge, theories, or rules can not? And might there be ways to cultivate this attunement or prevent its eclipse by other factors in the social environment? One thing is clear (and this is a thoroughly Heideggerian insight): **Attention to our finitude can open up the world in new ways; there is a fundamental connection between limit conditions and the disclosure of meaning**. Specifically, **our own sufferings can open us to noticing and feeling the sufferings of others.** As in the relationship between being-toward-death and care, **our experience of limits and loss can not only illuminate the urgency of our own concerns and vulnerability, it might be the best teacher in coming to care for others as well**. Although human beings and cultures might differ in their forms of life, **there is**, I think, **a common human understanding of finitude,** of what it means to lose one's interests. **Compassion in the face of pain, loss, and death can be the starting point for a cross-cultural ethics.**

**Hatab[[35]](#footnote-35):**

First, so many of our values address the supports for and obstacles to human development (e.g., homelife, child rearing, meaningful work, social relationships, cultural pursuits). On a political level, certain social programs should be seen to stem from asking basic ethical questions: What are the desirable ends of human activity? What are the ways in which a human life can flourish and turn out well? What are the material, environmental, and educational needs that make such flourishing more likely? Everything from pedagogy to welfare to health care to civil rights can at least be addressed in a clearer light and more effective public discourse if we trace them to the fundamental existential concerns we all recognize and affirm. Second, ethics itself is a human potential, the possibility of becoming a person who can live well with others. Attention to the human condition in all its facets would be an essential ingredient in moral education. The kind of analysis Heidegger offers in Being and Time is useful because it helps us understand what becoming ethical involves or requires--not simply value education, but how values constitute our very being-in-the-world, and what it takes to be able to enact our values. Attention to our sense of self and to the existential demands and difficulties of the ethical life have usually not been the focus of moral philosophy. I will develop some examples that address this problem shortly.

**Hatab 2:**

Authenticity in this sense of a tension between pattern and decision can be translated into ethics in two basic ways. First, **decision is an ultimate category in the finitude of ethical dwelling. Given limit conditions and uncertainties, we must still decide.** And often we must decide to rebel against an established convention, to disrupt it in our resolve. And even if we are clear about the good, **ethics is finally action, which means that we must decide to enact the good in the midst of counter-possibilities, which makes being ethical in the end spontaneous, without cognitive or social support**. The openness of Dasein's temporal futurity is an ineradicable condition of moral engagement. Ethics at bottom is groundless, but we must accept its finitude and still decide how to act. Second, in the area of human development, there is the matter of deciding for the ethical possibilities given in tradition, in the sense of passing from a conventionalistic affirmation of values to "owning" them, to internalizing them rather than simply following external influences. This, of course, has been a traditional ideal of Western education. Both of these basic elements of ethics that I have outlined can be expressed in terms of Heidegger's general dynamic of authenticity, as a coming to one's own decision in the midst of finite world involvements, and in terms of temporality, as a bringing to presence of future possibilities in the midst of an appropriated past. **The problem with traditional moral theories is that they want to "definitize" and "detemporalize" ethics by grounding the good in some fixed scheme; and they bypass the abyssal element of existential decision by modelling ethical deliberation along the lines of demonstrative and calculative techniques that in a sense decide things "for" us** (I don't "decide," for example, that 2 + 2 is 4, or that "Socrates is mortal" in the classic syllogism). Demonstrative "decidability," in fact, would erase the sense of responsibility for choices that also animates ethics. As I have said, it is not that these theories are mistaken. The **familiar models in moral philosophy** all show us something important in ethics, but **fail in their reductive groundings and exclusions. The ongoing and unsettled debates between egoism, utilitarianism, deontology, libertarianism, communitarianism, and so on, deconstruct into the elements of finitude sketched in this essay. Ethics**, like any other form of unconcealment, **is a mixture and oscillation of presence and absence**. When we focus, for example, on group interests, we conceal individuality, and vice versa; when we focus on principles, we conceal empirical contingencies, and vice versa; when we focus on obligation, we conceal inclination, and vice versa. The point is that **ethical situations usually involve a complicated interplay and tension of these concerns--this is the difficulty of ethical life**. Authentic decisions do not have to mean "correct" decisions, but something like the attentive ethical finesse of Aristotle's phronesis, a deliberative capacity for responsive and responsible choice. But as radically finite, an existential finesse would hold more of a tremble than Aristotle's comfortable tone would suggest. To balance this discomfort, we should keep in mind the nonsubjective features of Heidegger's world configuration, so that ethics is not taken to be so radically finite as to seem arbitrary. Moral commitment, though uncertain, has its truth.

**Failinger[[36]](#footnote-36):**

**None of these opportunities are offered by traditional retributive practices because**, with the exception of the actual individual victims, **few of the people whom** a woman **offender has affected** actually **appear in pretrial, trial or post-trial procedures**. A person who becomes addicted because of the offender’s behavior and the mother whose children are involved with dealing are not likely to be called to the stand to give evidence. **Even for those victims who appear, the rules of evidence and the traditional manner of presentation of witness testimony discourage the expression of pain, fear, and other emotions experienced by victims**. Indeed, **the retributive system discourages any relational bonding between the offender and the victim, portraying crime as an offense against the state. A[n]** woman **offender who is surrounded by people** whom she has **actually harmed**, may, through restorative encounters, **become more capable of expanding her circle of care to include concrete others who have been harmed by her actions, including members of the community who cease being impersonal.** A drug offender can start to empathize with the distraught daughter of an addict who cannot care for her because of the drugs, or a mother who is scared because her kids are drug couriers, or a police officer who despairs at the waste of life he sees every day. An embezzler can expand her circle of care from her own family, to the bank accountant who has to clean up the mess left by her crime, or the bank customers who are frightened by the insecurity of their accounts.

**Burns[[37]](#footnote-37):**

A man who thinks that he is all that he ought to be is obviously not what he ought to be. Anyone who has reached his ideal has no ideal; and a man without an ideal is not a man, for the world of moral action is as inexhaustible as the world of knowledge. We must therefore in our philosophy allow for two aspects of the moral world: in acts which express the good already achieved and in acts on the frontier. Some good acts have been done and are done daily; but other good acts have not yet been done, and among these there are probably kinds of good acts which are quite new. In other words, some acts are good because they maintain an ideal; others are good because they develop it. Not only is the ideal never reached, but the ideal itself changes; and the acts which develop the ideal are frontier acts, for they go beyond the area of experienced good. We are not concerned here with the increase in the knowledge about good acts or the science of ethics, but with good acts themselves. It is assumed for the present argument that there is a distinction between good and evil which is found in fact and is not arbitrary or imaginary. But of course the good is "relative" in the sense that good is a quality of a relation between a man and other men and perhaps also the circumstances of the moment. There could be no good or evil unless there were a particular kind of relation of men; but that relation may exist and the good in it may exist without anyone "knowing" it. Good, therefore, is relative to human beings, but not relative in the sense of "subjective" or relative to their opinions as to what is good. Good, therefore, with respect to knowledge, is absolute. Those who are unable to accept such a view of good must grant it for the purpose of the argument in order that we may explain what is meant by the frontier in morality.

**Burns 2:**

Now morality naturally grows as knowledge naturally develops: the frontiersman in morality is as important as the discoverer in science, and the good act which does not fit into any expe- rienced class of good acts is more important than the well- known good act. But clearly our moral progress is not as rapid as our progress in knowledge, and perhaps this is partly due to a false idea of morality. The frontier element in it has been neglected. New generations have been modeled upon the old; and in individual life men have become more conventional as they grew older. An intellectual mistake, however, is not enough to explain moral inertia: for indeed it seems that older races and older men tend to lose moral pliability and moral vigor. Moral excellence, on the contrary, ought to be always releasing new abilities for moral creation. There is, however, a very good reason why the emphasis upon conventional morality obscures the frontier and distracts attention from acts which may displace contemporary proprieties. Conventionalism in morality corresponds to dogma- tism in beliefs. Men do not like to act as if their acts were quite primitive: they are uneasy if they feel that they are really not quite civilized. But if the possible area of moral acts is very much wider than the actual area now covered, our morality seems to be more trivial than we should like to think it. If acts in the future are likely to displace entirely the acts believed to be good today, then neither constituted authori- ties nor moral obligation have quite the weight which many prefer to think they have. Now the desire for moral absolute- ness is like the desire for medieval certainty in beliefs: it is pathological. The normal moral attitude implies only a cer- tainty of the moment in an action so far good as men of our moral ineptitude can make it. That does not involve moral carelessness, just as the knowledge that our science is limited does not involve skepticism. Our morality is so feeble that we must care for it the more earnestly. But to suppose that we act morally in the full sense, while we maintain the praise- worthy but rather pitiful institutions of today in politics, in- dustry, and religion, is to imply a very narrow view of what morality may be. The conventions would not be insecure if men were strong enough to see that they were conventions: the contemporary proprieties are necessary only so long as men cannot replace them, although they may destroy them. There is, therefore, a good ground in an uncivilized society for emphasizing conventional morality rather than the adventures on its frontier. Nevertheless, in a philosophy we must allow for the importance of this frontier. For many men, even in our own uncivilized society, it is easy to see that to live up to one's ideal is not so difficult as it is to find an ideal that is worth living up to. But that requires expeditions beyond the frontier.

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